

Application Serial Number 10/505,348
Response to Office Action
Dated June 15, 2006

1. Amendments to the Drawings

By this amendment, three (3) sheets of drawings are provided for Figs. 1a-5. These drawings are labeled as 'New', although these are not new drawings. To wit, the drawings provided are from the document filed on August 19, 2004 under 35 U.S.C. 371(c). However, the drawings do not 'replace' any drawings.

Attachment: Three (3) sheets of drawings.

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REMARKS / DISCUSSION OF ISSUES

Objection to the Drawings

The three (3) sheets of drawings provided herewith are believed to overcome the objections thereto. Upon acceptance by the Examiner, Applicants will file formal drawings to replace those filed herewith.

Rejections Under 35 U.S.C. § 102

While in no way conceding the propriety of the rejections, Applicants have amended claim 1 to include subject matter similar to that of claim 11 as filed. Claim 11 was not rejected under this section of the Code. No subject matter is disclaimed by these amendments and Applicants reserve their right to pursue certain subject matter in further continuing applications.

Rejections Under 35 U.S.C. § 103

Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Iwauchi, et al.* (U.S. Patent 5,841,492) in view of *Liang, et al.* (U.S. Patent Publication 2002/0126249). For at least the reasons set forth herein, Applicants respectfully submit that amended claim 1 and the claims that depend therefrom are patentable over the applied art.

Analysis of obviousness under 35 U.S.C. §103 requires determination of the scope and content of the

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prior art, the differences between the prior art, and the claims at issue, and the level of ordinary skill in the pertinent art.

W.L. Gore & Associates, Inc. v. Garlock, Inc. 220 USPQ 303, 311 (1983) (citing *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (CAFC 1966)). Moreover, there must have been something present in the teachings of the prior art to suggest to one skilled in the art that the claimed invention would have been obvious. *W.L. Gore & Associates* at 311 (citing *In re Bergel* 130 USPQ 206, 208 (CCPA 1961); and *In re Spinnoble* 160 USPQ 237, 244 (CCPA 1969)).

Furthermore, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is a reason, suggestion or motivation do so. The reason, suggestion or motivation may come from references themselves;

from knowledge of those skilled in art that certain references or disclosures in references are known to be of interest in the particular field; or from nature of the problem to be solved to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *Pro-Mold and Tool Co. v. Great Lakes Plastics Inc.* 37 USPQ2d 1626 (CAFC 1996).

Moreover, prior knowledge in the field must be supported by tangible teachings of reference materials. *Cardiac Pacemakers Inc. v. St. Jude Medical Inc.* 72 USPQ 2d 1333, 1336 (CAFC 2004).

However, hindsight is never an appropriate motivation for combining references and/or the requisite knowledge available to one having ordinary skill in the art. To this

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end, relying upon hindsight knowledge of applicants' disclosure when the prior art does not teach nor suggest such knowledge results in the use of the invention as a template for its own reconstruction. This is wholly improper in the determination of patentability. *Sensonics Inc. v Aerosonics Corp.*, 38 USPQ 2d 1551-1554 (CAFC 1996), citing *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 220 USPQ 303. Moreover, the determination of obviousness cannot be based on the hindsight combination of components selectively culled out from the prior art to fit the parameters of the claims at issue. *Crown Operations International Ltd. v. Solutia Inc.* 62 USPQ2d 1917, 1922 (CAFC 2002).

Claim 1, as amended, features electro-optical components that_". . .comprise at least one first fluid and a second fluid, wherein the second fluid and the first fluid are immiscible."

Claim 13 includes a similar feature.

The applied art does not disclose at least the noted features of claim 1.

The Office Action relies on paragraph [0059] of *Liang, et al.* for a teaching of a second fluid material that is not miscible with the first fluid material. This portion of the reference discloses the need to prevent an LCD layer with an overcoated sealing layer during fabrication. In particular, the reference to *Liang, et al.* discloses that polymers may be used as a sealant composition that may be cured by heating or UV exposure.

Applicants submit:

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- 1.) The prevention of intermixing of the LCD material and the overcoat in *Liang, et al.* is only during fabrication, and not part of the resultant product. Rather, once cured, there is no longer a second fluid, but a cured polymer sealing layer.
- 2.) The overcoat of *Liang, et al.* never functions as a material of an electro-optic component as claimed. In an embodiment of the present teachings shown in Fig. 2, there is a first fluid 5 and a second fluid 6, which are immiscible. These fluids are components of a part of a display device 1 and exhibit electro-optic effects. Thus, the fluids of the present teachings are components of an electro-optic component and the overcoat of the teaching of *Liang, et al.* becomes a seal after curing, with the immiscibility being useful before curing of the seal.

For at least the reasons set for the above, Applicants respectfully submit that claim 1 and the claims that depend therefrom, and claim 13 are patentable over the applied art.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending


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claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. \$1.16 or under 37 C.F.R. \$1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.



by: William S. Francos (Reg. No. 38,456)

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Volentine Francos & Whitt, PLLC
Two Meridian Blvd.
Wyomissing, PA 19610
(610) 375-3513 (v)
(610) 375-3277 (f)